

1 **BERNARDO_K.gar3**

2 LEONARDO M. RAPADAS
United States Attorney
3 MARIVIC P. DAVID
Assistant U.S. Attorney
4 Sirena Plaza, Suite 500
108 Hernan Cortez Avenue
5 Hagåtña, Guam 96910-5029
TEL: (671) 472-7332
6 FAX: (671) 472-7215

7 Attorney's for United States of America

8 **IN THE UNITED STATES DISTRICT COURT**

9 **FOR THE DISTRICT OF GUAM**

10 UNITED STATES OF AMERICA,)
)
11 Plaintiff,)
)
12 vs.)
)
13 KATHLEEN BERNARDO)
aka KATHLEEN M. LEON GUERRERO,)
14 Defendant,)
15 _____)

CRIMINAL CASE NO. 97-00116

**WRIT OF CONTINUING
GARNISHMENT; INSTRUCTIONS
TO THE GARNISHEE**

16 STANDARD INSURANCE)
c/o Government of Guam Retirement Fund,)
17 Garnishee.)
18 _____)

19 **WRIT OF CONTINUING GARNISHMENT**

20 GREETINGS TO: Standard Insurance
21 c/o Government of Guam Retirement Fund
22 424 Route 8
Maite, Guam 96910

23 An application for a Writ of Continuing Garnishment against the property of Defendant-
24 Judgment Debtor KATHLEEN BERNARDO aka KATHLEEN M. LEON GUERRERO, Social
25 Security Number XXX-XX-5846, whose last known address is: XXXX N. Paulino Heights,
26 Ipan, Guam 96915, (hereinafter "Debtor"), has been filed with this Court. A judgment in a
27 criminal case was file against the Debtor on October 20, 1997 and the amount due totals
28 \$25,700.00, as of March 28, 2007 (\$25,355.00 principal + \$345.00 penalty).

1 You are required by law to answer in writing, under oath, and within ten (10), after
2 receipt of this writ, the following information: (1) Whether or not you have in your custody,
3 control or possession, any property or money owned by the Debtor, including nonexempt,
4 disposable earnings; (2) A description of such property and the value of the property; (3) A
5 description of any previous garnishment to which such property is subject and the extent to
6 which any remaining property is not exempt; and (4) The amount of the debt you anticipate
7 owing to the Debtor in the future and whether the period for payment will be weekly or another
8 specified period.

9 **You are also required by law to withhold and retain any property or money of the**
10 **defendant you have in your custody, control or possession, including wages, salary or**
11 **commissions, or if you obtain custody, control or possession until you receive instructions**
12 **from the Court which will tell you what to do with the property and which will notify you**
13 **when this Writ is no longer in effect. The United States requests that the sum of 25% of**
14 **the defendant's monthly non-exempt disposable earnings be withheld from the defendant's**
15 **earnings.**

16 You must file the original written answer to this writ within ten (10) days of your receipt
17 of this writ with the United States District Clerk at: U.S. District Court of Guam, 4th Floor,
18 U.S. Courthouse, 520 West Soledad Avenue, Hagåtña, Guam 96910. YOU MUST ANSWER
19 THE WRIT EVEN IF YOU DO NOT HAVE IN YOUR CUSTODY, CONTROL OR
20 POSSESSION ANY PROPERTY OF THE DEFENDANT. Additionally, you are required by
21 law to serve a copy of this answer upon the debtor at: XXXX N. Paulino Heights, Ipan, Guam
22 96915 and upon the United States Attorney at: U.S. Attorney's Office, Attn.: Marivic P. David,
23 Assistant U.S. Attorney, Sirena Plaza, Suite 500, 108 Hernan Cortez Avenue, Hagåtña, Guam
24 96910-5059.

25 Under the law, there is property which is exempt from this writ of Garnishment. Property
26 which is exempt and which is not subject to this order is listed on the attached Claim for
27 Exemption form, which the debtor must sign and return if she is claiming any exemptions.

28 //

1 If you fail to answer this writ or withhold property in accordance with this writ, the
2 United States of America may petition the Court for an order requiring you to appear before the
3 Court to answer the writ and to so withhold the property before the appearance date. If you fail
4 to appear or do appear and fail to show good cause why you failed to comply with this writ, the
5 Court may enter a judgment against you for the value of the Debtor's non-exempt interest in such
6 property (including nonexempt disposable earnings). The Court may also award a reasonable
7 attorney's fee to the United States and against you if the writ is not answered within the time
8 specified herein and if the United States files a petition requiring you to appear. **It is unlawful**
9 **to pay or deliver to the Debtor any item attached by this writ.**

10 DATED: April 3, 2007, Hagåtña, Guam.

11
12
13
14 Mary L. M. Moran
15 MARY L. MORAN
16 Clerk of Court
17 District Court of Guam

18
19
20
21
22
23
24
25
26
27
28
By: /s/ Walter M. Tenoro
Walter M. Tenorio,
Deputy Clerk

1 TO: Standard Insurance
2 c/o Government of Guam Retirement Fund
3 424 Route 8
4 Maite, Guam 96910

5 Please read the following instructions regarding the steps you must take to comply with
6 this Writ. For additional information, you may want to contact your attorney or the attorney for
7 the United States identified in Paragraph 6.

8 **INSTRUCTIONS TO THE GARNISHEE**
9

10 1. The name, last known address and Social Security Number of the person who is
11 the defendant in this action and whose property is subject to this Writ is:

12 KATHLEEN BERNARDO
13 aka KATHLEEN M. LEON GUERRERO
14 XXXX N. Paulino Heights
Ipan, Guam 96915
SSN: XXX-XX-5846

15 2. This Writ has been issued at the request of the United States of America to
16 enforce the collection of a criminal judgment entered in favor of the United States against the
17 defendant. The amount of the judgment as of March 28, 2007 \$25,700.00 (\$25,355.00 principal
18 + \$345.00 penalty).

19 3. If you have in your custody, control or possession any property or money of the
20 defendant, including wages, salary or commissions, or if you obtain custody, control or
21 possession of such property while this Writ is in effect, you must immediately withhold the
22 property from the defendant and retain it in your possession until you receive instructions from
23 the Court which will tell you what to do with the property and which will notify you when this
24 Writ is no longer in effect.

25 //

26 //

27 //

28 //

1 4. You are required to answer this Writ within 10 days after the service of the Writ
2 upon you. YOU MUST ANSWER THE WRIT EVEN IF YOU DO NOT HAVE IN YOUR
3 CUSTODY, CONTROL OR POSSESSION ANY PROPERTY OF THE DEFENDANT. Your
4 Answer must state, under oath, the following information:

- 5 a. whether you have custody, control or possession of money
6 or earnings of the defendant;
7 b. a description of the money or earnings and amount;
8 c. a description of any other garnishments, suggestions or
9 levies to which the earnings are subject and the extent to
10 which any remaining earnings are exempt from
11 garnishment, suggestion or levy;
12 d. the amount of any earnings you anticipate owing the
13 defendant in the future and the date on which payment will
14 be made; and
15 e. a description of any earnings you anticipate will come into
16 your custody, control or possession and the dates on which
17 such custody, control, or possession will occur.

18 5. After you complete the answer under oath, you must mail or deliver an answer
19 bearing the **original** signature plus one copy of the person preparing the answer to:

20 Clerk, United States District Court of Guam
21 4th Floor, U.S. Courthouse
22 520 West Soledad Avenue
23 Hagåtña, Guam 96910

24 At the same time you mail or deliver the answer to the Clerk, you must also mail or
25 deliver copies of the answer to:

26 Marivic P. David
27 Assistant U.S. Attorney
28 U.S. Attorney' Office
 Attn: Financial Litigation Unit
 Sirena Plaza, Suite 500
 108 Hernan Cortez Avenue
 Hagåtña, Guam 96910-5059

1 KATHLEEN BERNARDO
2 aka KATHLEEN M. LEON GUERRERO
3 XXXX N. Paulino Heights
Ipan, Guam 96915

4 6. If you have any questions, you should contact your attorney. You may also
5 contact a representative of the United States at the following address and telephone number:

6 Marie Chenery
7 Financial Litigation Unit
8 Sirena Plaza, Suite 500
9 108 Hernan Cortez Avenue
Hagåtña, Guam 96910-5059
(671) 472-7332, extension 122
FAX: (671) 472-7215

10 7. IF YOU FAIL TO ANSWER THIS WRIT OR TO WITHHOLD PROPERTY IN
11 ACCORDANCE WITH THE WRIT, THE UNITED STATES MAY PETITION THE COURT
12 FOR AN ORDER REQUIRING YOU TO APPEAR BEFORE THE COURT TO ANSWER
13 THIS WRIT AND TO SO WITHHOLD PROPERTY BEFORE THE APPEARANCE DATE.

14 IF YOU FAIL TO APPEAR, OR YOU APPEAR AND FAIL TO SHOW GOOD
15 CAUSE WHY YOU FAILED TO COMPLY WITH THIS WRIT, THE COURT WILL ENTER
16 JUDGMENT AGAINST YOU FOR THE VALUE OF THE DEBTORS'S NONEXEMPT
17 INTEREST IN SUCH PROPERTY (INCLUDING NONEXEMPT DISPOSABLE EARNINGS).

18 THE COURT MAY ALSO AWARD A REASONABLE ATTORNEY'S FEE TO
19 THE UNITED STATES AND AGAINST YOU IF THE WRIT IS NOT ANSWERED WITHIN
20 THE TIME SPECIFIED HEREIN AND IF THE UNITED STATE FILES A PETITION
21 REQUIRING YOU TO APPEAR.

CLAIM FOR EXEMPTION FORM
EXEMPTIONS UNDER FEDERAL LAW (18 U.S.C. § 3613)

NOTE: 18 U.S.C. § 3613(a), the federal statute governing liens arising from criminal fines and restitution obligations, generally incorporates the exemptions available to individual taxpayers under the Internal Revenue Service Code.

I claim that the exemption(s) from enforcement which are checked below apply in this case:

- _____ 1. Wearing apparel and school books.--Such items of wearing apparel and such school books as are necessary for the debtor or for members of his family.
- _____ 2. Fuel, provisions, furniture, and personal effects.--So much of the fuel, provisions, furniture, and personal effects in the Debtor's household, and of the arms for personal use, livestock, and poultry of the debtor, as does not exceed **\$6,250** in value.
- _____ 3. Books and tools of a trade, business, or profession.--So many of the books, and tools necessary for the trade, business, or profession of the debtor as do not exceed in the aggregate **\$3,125** in value.
- _____ 4. Unemployment benefits.--Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State, or of the District of Columbia or of the Commonwealth of Puerto Rico.
- _____ 5. Undelivered mail.--Mail, addressed to any person, which has not been delivered to the addressee.
- _____ 6. Certain annuity and pension payments.--Annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 1562), and annuities based on retired or retainer pay under Chapter 73 of Title 10 of United States Code.
- _____ 7. Workmen's Compensation.--Any amount payable with respect to compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico.
- _____ 8. Judgments for support of minor children.--If the debtor is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of his minor children, so much of his salary, wages, or other income as is necessary to comply with such judgment.
- _____ 9. Certain service-connected disability payments.-- Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of Title 38, United States Code) disability benefit under--(A) subchapter II, III, IV, V, or VI of Chapter 11 of such Title 38 or (B) Chapter 13, 21, 23, 31, 32, 34, 35, 37, or 39 of such Title 38.

_____ 10. Assistance under Job Training Partnership Act.

--Any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) from funds appropriated pursuant to such Act.

_____ 11. Minimum exemptions for wages, salary and other income. The exemptions under 26 U.S.C. § 6334(a)(9) do not apply in criminal cases. The exceptions under the Consumer Credit Protection Act, 15 U.S.C. § 1673, for disposable earnings, automatically apply and do not need to be claimed. The aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed (1) 25 % of his disposable earnings for that week, or (2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage in effect at the time the earnings are payable, whichever is less.

The statements made in this claim of exemptions and request for hearing as to exemption entitlement and fair market value of the property designated are made and declared under penalty of perjury that they are true and correct.

_____ I hereby request a court hearing to decide the validity of my claims. Notice of the hearing should be given to me by mail at:

(_____) or telephonically at (_____)
Address Phone No.

Debtor's printed or typed name

Signature of debtor

Date